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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,084	12/30/2003	Jeffrey A. Tilton	25352A	7972
22889	7590	02/24/2006	EXAMINER	
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			TORRES VELAZQUEZ, NORCA LIZ	
			ART UNIT	PAPER NUMBER
			1771	
DATE MAILED: 02/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/749,084

Applicant(s)

TILTON ET AL

Examiner

Norca L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/12/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 22-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Terminal Disclaimer*

1. The terminal disclaimers filed on December 12, 2005 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration dates of 10/629,099 and 10/211,407 have been reviewed and are accepted. The terminal disclaimers have been recorded.

### *Response to Arguments*

2. Applicant's arguments filed December 12, 2005 have been fully considered but they are not persuasive.

a. Applicant's amendment to the claims has overcome the indefiniteness rejection of independent claim 1 by differentiating the individual elements that form the blanket from the blanket itself. However, it is noted that now claim 2 and its dependent claims lack antecedent basis since it refers to "said thermally bonded polymer blanket product".

b. Further, Applicants were non-responsive to Examiner's remarks on claim 37 (Refer to page 3, paragraph 8 of previous office action). Is the range from 32-800.0 kg/m<sup>3</sup> correct? Or was it meant to be from 32-80.0 kg/m<sup>3</sup>.

c. With regards arguments to the rejection of claims 1-21 under 35 USC 103(a) over U.S. 2004/0023586A1 in view of JP 58145435, it is noted that Applicants have failed to positively state that the application and the reference were, **at the time the invention was made**, owned by the same person. It is noted that assignment records by themselves, or a mere statement of common ownership without the required statement including "at

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the time the invention was made,” are not sufficient evidence. Therefore, the rejection is maintained herein.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 2-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 recites the limitation "said thermally bonded polymer blanket product" in line 2. There is insufficient antecedent basis for this limitation in the claim.
4. It is noted re-stated herein, that claim 37 claims a density from 32-800 kg/m<sup>3</sup>, is this Applicant's intention? Please, clarify if the range is from 32-800.0 kg/m<sup>3</sup> or if Applicants meant from 32-80.0 kg/m<sup>3</sup>.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-21 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over TILTON (US 2004/0023586A1) in view of JP 58145435.

TILTON discloses a fibrous blanket material 10 having a first fibrous layer and a layer of meltblown polypropylene. (Abstract) In Figure 1 of the reference (shown below), shows the polypropylene meltblown layer 14 and the first fibrous blanket layer 12. The first fibrous layer

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12 typically is provided with a thickness of between about 0.5 to about 8.0 cm. The first fibrous layer has an average fiber diameter of between about 10.0 and about 30.0 microns and a density of between about 0.5 and about 8.0 lbs/ft<sup>3</sup> [8-128 kg/m<sup>3</sup>]. The layer 14 of meltblown polypropylene fibers has a thickness of between about 0.0127 to about 0.254 cm, a weight of between about 0.5 to about 10.0-ounces/sq. yard [0.01695-0.3391 kg/m<sup>2</sup>]. The meltblown polypropylene fibers of the layer 14 have an average diameter of between about 2.5 to about 50.0 microns. (Refer to paragraphs [0023-0024])

The Examiner equates layer 14 of TILTON to the presently claimed skin layer. The Examiner has calculated the density of this layer based upon the basis weight and the thickness of the layer taught by TILTON. A density of 133 kg/m<sup>3</sup> is obtained when the layer has a basis weight of 0.5 oz/yd<sup>2</sup> [0.01695kg/m<sup>2</sup>] at a thickness of 0.0127 cm. Therefore, a density of 133 kg/m<sup>3</sup> meets the limitation of at least 50 kg/m<sup>3</sup> claimed herein. It is further noted, that with the range of values for the thickness and basis weight taught by TILTON, densities as low as 6.67 kg/m<sup>3</sup> can be obtained. Layer 12 of TILTON is equated to the claimed lofty portion. The thickness of the fibrous blanket layer 12 of TILTON has a thickness of about 5 mm to about 80 mm.

Layer 14 of TILTON has a thickness of 0.0127-0.254 cm [0.127 – 2.54 cm]. (Refer to [0024]) TILTON teaches average fiber diameter from 2.5 to 50 microns. (Refer to [0024])

It is noted that the reference also teaches using fiber material such as polyester and fiberglass. (Refer to [0026]) The reference teaches a thickness of between about 0.5 and about 8.0 cm [5-80 mm] for layer 12. (Refer to [0023]) The reference further teaches that layer 12 is

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formed by any suitable manner known in the art and that it may incorporate multi-component fibers. (Refer to [0028])

It is the Examiner's interpretation that the fibrous blanket of TILTON reads on the polymer blanket product forming the individual pieces of the present invention.

However, the reference fails to teach cutting the blanket and then thermally bonding them to form the compressible, flexible, polymer fiber blanket of the present invention.

The JP'435 reference teaches a heat-insulating sheet formed by cutting pieces of heat-insulating material and then assembling them into a heat-insulating sheet. (Abstract)

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the fibrous blanket of TILTON by cutting the blanket in pieces and re-assembling it with the motivation of being able to introduce some waste heat-insulating materials into the arrangement and reduce the cost of the materials and incinerating costs as taught by JP '435. *[It is noted that the claims of the present invention have a comprising language that does not preclude from the inclusion of other elements.]*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

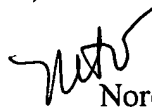
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Norca L. Torres-Velazquez  
Primary Examiner  
Art Unit 1771

February 17, 2006